

September 9, 1999

CMP NATURAL GAS, L.L.C.,
Petition for Approval to Furnish Gas
Service in the Municipalities of
Westbrook and Gorham (§2105)

ORDER ON RECONSIDERATION
OF SCHEDULE AND SCOPE

Welch, Chairman; Nugent and Diamond, Commissioners

I. SUMMARY

We hereby establish that the schedule for resolution of this proceeding will conclude on or about November 1, 1999.

II. BACKGROUND

On August 23, 1999, CMP Natural Gas filed a petition for rehearing and reconsideration of the Hearing Examiner's rulings on scope and schedule at the August 18, 1999 case conference in this proceeding. CMP Natural Gas argued that competitive issues related to its proposed use of affiliate Central Maine Power Company's right-of-ways and policy issues related to allowing a second utility to serve in a municipality in which an existing utility is currently serving should not be considered in this proceeding. CMP Natural Gas requested that the Commission limit the scope of issues accordingly and reestablish the date for final decision in this proceeding to be on or before October 1, 1999 so that it could avoid business risks associated with beginning construction of the project before obtaining regulatory approval.

The Commission held a hearing on September 7, 1999 to explore the specific question of what harm would ensue if the procedural schedule in this case were extended beyond October 1, 1999. The Office of the Public Advocate (OPA), Northern Utilities, Inc. (Northern), and CMP Natural Gas participated in the hearing. This matter was deliberated immediately following the hearing.

III. DISCUSSION

CMP Natural Gas argues that this proceeding has very few issues for our consideration and that it can be processed very quickly. It seeks resolution within the next few weeks. Northern and OPA contend -- and the Hearing Examiner concurred in rulings made at the initial case conference on August 18th -- that this case raises issues of policy and fact involving both service territory boundaries and affiliate or

competitive issues that warrant lengthier consideration under the joint schedule now in effect, which results in a final decision in early December.

At the hearing, we explored the consequences of extending our proceeding to review CMP Natural Gas's application for service authority beyond October 1, 1999. While the testimony on this is inconclusive, because of the substantial public and private interests at stake, we do not wish to delay Calpine's operations.

We also inquired into the degree to which the matters at issue were likely to be factual, as opposed to policy considerations. Both Northern and CMP Natural Gas indicated that they viewed the matters at issue to be largely policy matters susceptible to argument.

Given these assertions, the current schedule does not appear to accurately reflect the time necessary to adequately assess CMP Natural Gas's application. Nor does due process require that we provide all the procedural steps that are contained in the present schedule.

Consequently, we conclude that it is possible to complete this proceeding in a shorter time frame than the current schedule establishes. However, because of the range and importance of the matters at issue in this proceeding and the limited time remaining, it is apparent that resolution of this matter by October 1, 1999 is not feasible. We therefore instruct the Hearing Examiner to develop a schedule which would resolve this proceeding by November 1, 1999 or shortly thereafter. We also direct the Examiner to require the parties to develop a list of stipulated issues to facilitate the smooth and efficient processing of this matter.

If in the course of the proceeding, issues or information come to light which suggest that a longer investigation is warranted, we will reconsider this decision.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch

Nugent
Diamond